

REMARKS/ARGUMENTS

Favorable reconsideration of this application, in light of the present amendments and following discussion, is respectfully requested.

Claims 1 and 3-7 are pending. Claims 1 and 3-6 are amended. Claim 2 is canceled without prejudice or disclaimer. Support for the amendment to Claim 1 can be found in now-canceled dependent Claim 2, for example. Support for the amendments to Claim 3-6 is self-evident. Claim 7 is withdrawn. No new matter is added.

In the outstanding Office Action, the Restriction Requirement dated April 23, 2008, was made final. Claims 1-6 were rejected under 35 U.S.C. § 112, second paragraph, as indefinite. Claims 1-5 were rejected under 35 U.S.C. § 102(b) as anticipated by Shigeta (Japanese Patent Pub. 07/232770, herein "Shigeta"). Claims 1-5 were rejected under 35 U.S.C. § 102(e) as anticipated by Hollander (U.S. Patent No. 6,431,359, herein "Hollander"). Claims 1-6 were rejected under 35 U.S.C. § 102(b) as anticipated by Densen (U.S. Patent No. 4,953,779, herein "Densen").

Regarding the rejection of Claims 1-6 as indefinite, that rejection is respectfully traversed by the present response.

The outstanding Office Action asserted that phrases such as "capable of forming a three-dimensional image" and "a three-dimensional image is observed" were indefinite because the phrases having no meaning as to how images on the package can form three-dimensional images.¹ The outstanding Office Action also asserted that "the center" in Claim 6 lacks antecedent basis.

As Claim 2 is canceled, Applicants respectfully submit that any rejection of this claim is negated.

¹ Outstanding Office Action, page 2.

Regarding the phrase “capable of forming a three-dimensional image,” this phrase is amended in independent Claim 1 to indicate that the first and second images are configured to be observed as a three-dimensional image when observed as a pair. This feature is fully supported in the original specification in reference to, for example, numbered paragraphs [0029]-[0035] describing Figs. 1 and 2. Applicants respectfully submit that, in light of the specification, a person of ordinary skill in the art would understand how the first and second images are configured to be observed as a three-dimensional image. For example, at least two techniques for providing this feature are described in the original specification. Accordingly, Applicants respectfully submit that the rejection of Claims 1-5 for including the above-noted phrase is overcome. In addition, regarding the rejection of Claim 6 for reciting “a three-dimensional image is observed,” Applicants respectfully submit that as Claim 6 is amended to recite that “a three-dimensional image is observable,” the rejection of Claim 6 as indefinite is overcome because a person of ordinary skill in the art would understand this feature in light of the specification. Claim 6 is further amended to change “the” to “a” before the word “center.” Accordingly, Applicants respectfully submit that amended Claim 6 is clear and definite.

Regarding the rejection of Claims 1-5 as anticipated by Shigeta, that rejection is respectfully traversed by the present response.

Amended independent Claim 1 recites, in part:

... at least first and second images configured to be
observed as a three-dimensional image when observed as a
pair,
wherein the first image is disposed on a first surface of
at least two surfaces of the merchandise package and the
second image is disposed on a second surface thereof, and
the merchandise package is a parallelepiped.

Accordingly, the first and second images are formed on first and second surfaces of a parallelepiped. One benefit of providing the first and second images on a parallelepiped is

that the images may be easily disposed on two individual packages, and the packages may be placed next to each other in appropriate alignment inasmuch as parallelepipeds provide surfaces that are easy to align with each other, for example, on a retailer's shelf.

The outstanding Office Action relies on subject (1) of Shigeta for the package recited in independent Claim 1.² However, Applicants respectfully submit that subject (1) is merely an original image disposed on, for example, a sheet of paper. Subject (1) is not a "package" as a person of ordinary skill in the art would understand the term "package."

Regarding the cans depicted in Figs. 1(a) and 1(b) of Shigeta, Applicants respectfully submit that the cans are not **parallelepipeds**.

Applicants respectfully submit that, as shown in Figure 1(a) of Shigeta, the subject (1) is not a merchandise package, and as shown in Figs. 1(b) and 1(c) of Shigeta, the cans including the image (A) are not parallelepipeds, amended independent Claim 1 patentably distinguishes over Shigeta. Claims 3-6 depend from amended independent Claim 1 and patentably distinguish over Shigeta for at least the same reasons as amended independent Claim 1 does.

Regarding the rejection of Claims 1-5 as anticipated by Hollander, that rejection is respectfully traversed by the present response.

Hollander describes a "Multi-View Packaging Material." In Hollander, different images are disposed on corresponding surfaces of the packaging material. When a person views the package from a different angle, the contents of the packaging material can be viewed according to the particular image associated with that angle. In other words, Hollander disposes a front image on a front surface of a package, a right-side image on a right side of a package, and a back image on a back surface of a package. None of the images described in Hollander is a **three-dimensional image** as a person of ordinary skill in the art

² Outstanding Office Action, page 3.

would understand the term “three-dimensional.” Rather, each of the images formed on the different sides of the package described in Hollander is a mere two-dimensional image on a package and is not configured to form a three-dimensional image when viewed as a pair with another image. Accordingly, as amended independent Claim 1 recites that the first and second images are configured to be observed as a three-dimensional image when observed as a pair, amended independent Claim 1 patentably distinguishes over Hollander for at least the reasons discussed above.

Regarding the rejection of Claims 1-6 as anticipated by Densen, that rejection is respectfully traversed by the present response.

Densen merely describes a blank that can be folded so as to form a predetermined design when a box is produced from a flat blank. Densen does not indicate that two images on the folded box, when observed together as a pair, are observable as a three-dimensional image. Rather, all of the images disposed on all of the surfaces of the blank described in Densen are mere two-dimensional images configured to be observed as two-dimensional images individually and not **configured to be observed as a pair with another image as a three-dimensional image**.

The outstanding Office Action asserts that the images on the package described in Densen are “inherently capable of forming a three-dimensional image by becoming a pair.”³ However, Applicants respectfully submit that for a feature to be inherent, the feature must necessarily be present in the cited reference.⁴ In the present case, Densen does not describe that any of its two-dimensional images are configured to be viewed as a pair to form a three-dimensional image, and the outstanding Office Action has pointed to no portion of Densen or to evidence in the record in support of the assertion that the two-dimensional images described in Densen are inherently capable of forming a three-dimensional image. In fact,

³ Outstanding Office Action, page 4.

⁴ MPEP § 2112.

not all two-dimensional images are capable of forming three-dimensional images when viewed as a pair. Therefore, this characteristic is not necessarily present in all two-dimensional images, and Densen does not inherently disclose a three-dimensional image merely because Densen describes multiple two-dimensional images as asserted in the outstanding Office Action. Thus, Applicants respectfully submit that amended independent Claim 1 and the claims depending therefrom patentably distinguish over Densen for at least the above-noted reasons.

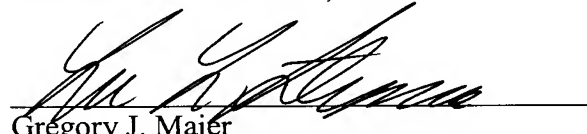
Additionally, Applicants respectfully submit that dependent Claim 6 further patentably distinguishes over Densen inasmuch as amended dependent Claim 6 recites "wherein at least one of the first and second surfaces is an outside surface, wherein a figure having a point symmetry shape is disposed on the outside surface in a manner such that a center of the figure is displaced from a center point of the outside surface, and a three-dimensional image is observable when two of the merchandise packages are juxtaposed in a manner such that one of the two merchandise packages is rotated by 180 degrees relative to the other merchandise package."

Densen merely describes a plurality of images disposed on various sides of a box. Densen does not suggest that one box rotated 180° relative to another box would produce a three-dimensional image when an image disposed on one side of a box is viewed in combination with an image disposed on a side of the other box when the other box is rotated 180° relative to the first box. Accordingly, Applicants respectfully submit that amended dependent Claim 6 further patentably distinguishes over Densen for at least the additional reasons discussed above.

Consequently, in light of the above discussion and in view of the present amendment, the present application is believed to be in condition for allowance. An early and favorable action to that effect is respectfully requested.

Respectfully submitted,

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A handwritten signature in black ink, appearing to read 'Gregory J. Maier', is written over a horizontal line.

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